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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,702	09/09/2003	Carmelo Di Blasi	6254.695	8751
7590	08/12/2005			EXAMINER
Geoffrey R. Myers, Esquire Hall, Priddy, Myers & Vande Sande Ste. 200 10220 River Road Potomac, MD 20854			BOTTORFF, CHRISTOPHER	
			ART UNIT	PAPER NUMBER
			3618	
			DATE MAILED: 08/12/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/657,702	DI BLASI ET AL.
	Examiner Christopher Bottorff	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 September 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date :	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on December 6, 2004 was considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "and/or" in line 2 of claim 1 is not clear as to whether the frame is powered by either a physical force or a motor or is powered by both a physical force and a motor. Claim 1 also recites the limitation "the rear lateral wheels" in lines 7-8. There is insufficient antecedent basis for this limitation in the claim.

The expression "in particular" in claim 4 is unclear as to whether the claim defines the frame broadly or specifically. The features of the frame are first claimed

generally and then, following the expression "in particular," are claimed more specifically. The expression "more specifically" in claim 11 is similarly unclear. For the purposes of examination and determining claim allowability, the scope of the claims was construed as defining the invention specifically.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 6, 7, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Shea et al. US 6,325,406.

O'Shea et al. disclose a tricycle 20 having a foldable frame powered by physical force. See Figures 1 and 2. The frame comprises a number of subframes interconnected to fold the component members of the frame. See Figure 1. By folding a central subframe 30 by exerting a force on it, two lateral subframes 26 supporting rear lateral wheels 28 are folded from a first fully unfolded configuration to a second fully folded configuration. See Figures 1, 2, and 3. Conversely, by unfolding the central subframe 30, the lateral subframes 26 are also unfolded. See Figure 1.

Each of the two lateral subframes 26 is connected functionally to the central subframe 30 by a first mechanism 50, so that deformation of the central subframe 30 is unequivocally related to that of the two lateral subframes 26 and each configuration of the central subframe 30 corresponds to one, and only one, configuration of the two lateral subframes 26. See Figures 1, 2, and 6. When the central subframe 30 is deformed into a fully unfolded configuration corresponding to a running configuration of the tricycle, the two lateral subframes 26 assume the fully unfolded configuration corresponding to the running configuration of the tricycle. See Figure 1. Conversely, when the central subframe 30 is deformed into a fully folded configuration, the two lateral subframes 26 are collapsed against the central subframe 30 into a minimum-size configuration of the tricycle. See Figure 3.

The central subframe 30 is moved from the fully unfolded to the fully folded configuration, and vice versa, by applying a force on a member 60 of the central subframe. See Figure 8. The force is applied on a member 110 projecting from the member 60 of the central subframe. See Figure 8.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Shea et al. US 6,325,406 in view of Tomasi et al. US 6,811,178.

O'Shea et al. do not disclose that the central subframe is substantially in the form of an articulated quadrilateral or that the central subframe is moved from the fully unfolded to the fully folded configuration and vice versa by means of actuating means acting between two members of the central subframe.

However, Tomasi et al. teach the desirability of providing a folding frame with a central subframe 5 that is substantially in the form of an articulated quadrilateral. See Figures 1, 4, and 5. Tomasi et al. further teach the desirability of moving the central subframe 5 between configurations by means of actuating means 8, 9 acting between two members 6b' and 60 of the central subframe 5. See Figure 4.

From the teachings of Tomasi et al., providing the central subframe of O'Shea et al. substantially in the form of an articulated quadrilateral moved by actuating means acting between two members of the central subframe would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide an effective structure for folding the frame and would allow an operator to fold and unfold the frame with ease.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Shea et al. US 6,325,406 in view of Di Blasi et al. EP 1 086 888 A2.

O'Shea et al. do not disclose that each of the two lateral subframes is substantially in the form of an articulated quadrilateral. However, DiBlasi et al. teach the

desirability of providing a wheel supporting subframe 1 substantially in the form of an articulated quadrilateral. See Figure 2a. From the teachings of DiBlasi et al., providing the lateral subframes of O'Shea et al. substantially in the form of articulated quadrilaterals would have been obvious to one of ordinary skill in the art at the time the invention was made. Such a structure would effectively support the wheels on the frame.

### ***Allowable Subject Matter***

Claims 5, 8, 9, and 11-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The prior art does not teach the combination of features defined in these claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hurdy, Langkamp, Onishi, and Gill et al. disclose collapsible frames. Beresnitzky et al. disclose a tricycle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (571) 272-6692. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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